



de maximis, inc.

186 Center Street
Suite 290
Clinton, NJ 08809
(908) 735-9315
(908) 735-2132 FAX

June 28, 2013

Stephanie Vaughn
Lower Passaic River Restoration Project
U.S. Environmental Protection Agency, Region II
290 Broadway
New York, New York 10007-1866

Via Electronic Mail

**Re: Notice of Force Majeure –
Bridge Street Bridge - Hurricane Sandy-Related Repairs
River Mile 10.9 Removal Action
CERCLA Docket No. 02-2012-2015**

Dear Ms. Vaughn:

This letter is submitted on behalf of the Lower Passaic River Cooperating Parties Group (CPG) to provide notice in accordance with Section XVII of the "Administrative Settlement Agreement and Order on Consent for Removal Action," captioned "In the Matter of Lower Passaic River Study Area portion of the Diamond Alkali Superfund Site," CERCLA Docket No. 02-2012-2015 (AOC) that a Force Majeure event exists due to the fact that the Bridge Street Bridge (hereafter Bridge), which is located at River Mile (RM) 5.41 and connecting Newark and Harrison, is currently inoperative. The inoperative condition of the Bridge prevents the CPG and its contractors from mobilizing to the RM 10.9 Removal Area on the schedule agreed upon between USEPA and the CPG. The inoperable state of the Bridge is beyond the control of the CPG or its contractors, as the Bridge is owned and/or operated by Essex and Hudson Counties.

At this time, mobilization of equipment to the RM 10.9 Removal Areas is not possible until the Bridge is repaired and operational. As such, mobilization to the RM 10.9 Removal Areas can not begin during the week of July 1 and removal of sediment can not start on Monday, July 8, 2013. However, the CPG has taken the steps outlined below to attempt to mitigate the delay and to offer assistance to Essex and/or Hudson Counties in returning the Bridge to operable condition.

The CPG's contractors began their survey of the bridges to be utilized for the RM 10.9 Removal Action in October of 2012. No operational problems were identified at that time. In February 2013, the contractors re-contacted the operators of the lowest clearance bridges. Essex County told the contractors that "the bridges were less than 100% operational because of Hurricane Sandy damage but would be fully operational by the end of March". In April, the contractors again contacted the operator of the Bridge Street Bridge and were told that repairs were underway for the clutch assembly and drives which open and close the swing bridge. The contractors were assured that the Bridge Street Bridge would be fully operational by April 29.

S. Vaughn
RM 10.9 Removal Action – Force Majeure
June 28 2013
Page 2 of 3

The CPG's contractors monitored the US Coast Guard's Local Notice to Mariners (LNM), which are critical to all navigators and provide notices of changes in channel conditions, obstructions, restricted areas, and information on bridges. In effect, the LNM's are essential in aiding mariners in their navigation plans, particularly for travel in a federally authorized channel such as the Passaic River. The CPG's contractors found no information on the inoperative condition of the Bridge in the LNM's.

In final preparation for the RM 10.9 Removal Action, the CPG's contractors sent final notices to the appropriate bridge entities on June 13, 2013. On June 20, the CPG's contractors were informed by Essex County that the Bridge was still inoperative. During the April repairs, according to Essex County it was determined by Hudson County (who is the lead on repairs) that the repairs needed were more extensive than originally expected. The two main motors were identified as inoperative and could not be repaired in place or replaced. Instead, both main motors had to be removed and shipped to a facility for repair and rebuilding. The CPG's contractors have offered any assistance they can provide to Essex and/or Hudson Counties in expediting this effort.

The CPG understands that Hudson County expects to receive the two repaired main motors on July 8 and that the Bridge should be operational on or about July 22. The CPG and its contractors have requested in writing confirmation of this schedule with Essex and Hudson Counties. The CPG's contractors will remain in close coordination with both Essex and Hudson Counties to continue to monitor the repairs and offer assistance.

In the opinion of the CPG, this Force Majeure event will not cause or contribute to an endangerment to public health, welfare or the environment. The CPG is closely monitoring the situation and, through a coordinated effort with Essex and Hudson Counties, the Force Majeure should only result in a delay of a few weeks.

Attached are (1) a Notice of Delay from CH2M Hill (CPG's General Contractor) and (2) a June 25, 2013 letter from the Great Lakes Dredging and Drydock (CPG's Dredging and Transportation Sub-Contractor) to Essex County.

The CPG appreciates the EPA's cooperation and understanding as the CPG and its contractors work through this situation. The CPG will provide written and verbal updates as new information becomes available.

S. Vaughn
RM 10.9 Removal Action – Force Majeure
June 28 2013
Page 2 of 3

Please contact William Hyatt, Willard Potter or me if you require further information.

Very Truly Yours,
de maximis, inc.



Robert Law, Ph.D.
CPG Project Coordinator

cc:

Ray Basso, EPA
Sarah Flannigan, EPA
Mike Hoppe, EPA
Willard Potter, de maximis
William Hyatt, CPG Coordinating Counsel
CPG Members

Attachments

**CH2M HILL**

9191 South Jamaica Street
Englewood, CO
80112

Mailing Address:

P.O. Box 241325
Denver, CO
80224-9325

Tel 303.771.0900

June 27, 2013

William Potter
186 Center Street
de maximis, Inc.
Clifton, NJ 08809

Re: Lower Passaic River Mile 10.9 Removal Action
Notice of Delay

Dear Mr. Potter:

As we have discussed over the past several days, commencement of the River Mile 10.9 (RM10.9) will be delayed because of the inoperability of the Bridge Street Bridge. This letter serves as a formal Notice of Delay under Section 11 of the Professional Services Agreement between the Lower Passaic River Study Area Cooperating Parties Group and CH2M HILL Engineers, Inc (December 9, 2010). The following information is organized as prescribed by Section 11.

A. The nature of the delay

As requested by EPA, dredging for the RM10.9 removal was to commence on July 8, 2013. Based on information provided by the Essex County Department of Transportation, the Bridge Street Bridge is currently inoperable and is not scheduled to be operational until the week of July 22nd. Opening of the bridge is required for the movement of vessels involved in dredging and transport of removed sediment. As a consequence, movement of the dredging equipment to the RM10.9 removal area will not commence until July 22 or thereafter. At this point we are proceeding on the basis the bridge will be operational July 22nd. We will notify de maximis as soon as we have a more concrete date.

B. Whether Contractor believes that an event beyond the Contractor's reasonable control caused the delay and, if so, an explanation for such belief

Yes. The owner/operator of the bridge has commenced performing repairs which render the bridge inoperable. CH2MHill has no control over the operation, maintenance or repair of the bridge.

C. The reasons for the delay

There are no viable alternatives to opening of the Bridge Street Bridge for transportation of dredge and barging equipment on the river.

D. The actions that have been taken and will be taken to mitigate, prevent and/or minimize the delay

All combinations of different vessels have been evaluated to determine whether passage is possible without opening of the bridge. Because of the very low vertical clearance under the Bridge Street Bridge (as low as seven (7) feet), none of vessel combinations could make passage. Delay in final completion of project will be minimized by maximum effort to improve dredging efficiency without violating any prescribed environmental conditions.

E. The effect the delay will have upon the performance of the Remaining Work and the Project Schedule

If the bridge is fully operational on July 22 and there are no other delays outside of CH2MHill's control, the dredge equipment will be transported to the RM10.9 removal area and be ready to begin dredging on July 26, 2013. Based on the current durations in the project schedule, the removal action will complete by November 23, 2013. As stated above, CH2MHill will strive to further reduce the delay.

Sincerely,

Gary R. Foster
Construction Project Manager
CH2M HILL

cc: William H. Hyatt, Jr.



**Great Lakes
Dredge & Dock
Company, LLC**

2122 York Road
Oak Brook, Illinois 60523
630.574.3000

June 25, 2013

Luis E. Rodriguez
Supervising Engineer
County of Essex
Department of Public Works
Division of Engineering
900 Bloomfield Avenue
Verona, NJ 07044

**Subject: Bridge Street Bridge Status
Lower Passaic River Study Area Project, River Mile 10.9
Lyndhurst, NJ**

Dear Mr. Rodriguez,

Great Lakes Dredge & Dock Company (GLDD) has been retained by CH2M HILL to perform the remediation of an approximate five acre area of the Passaic River noted as the Lower Passaic River Study Area, River Mile 10.9. The remediation includes the removal of approximately 19,600 cubic yards of river sediments and installation of a multi-layer subaqueous cap. The dredge sediments will be transported to a processing facility during evening hours utilizing loaded material transport barges/tugboats traveling up the Passaic and Hackensack Rivers. A return trip that same evening will occur with an empty material transport barge/tugboat. This travel route requires the equipment to negotiate several bridges requiring an opening as required by the air draft of the tugboat (approximately 16-feet).

On April 11, 2013, GLDD initiated a river survey to determine water depths, bridge heights/widths and travel time. GLDD used the survey boat Wolf River that possesses an air draft of 15-feet. At mile marker 5.6, the Wolf River encountered the Bridge Street bridge where it was discovered that the bridge was non-operational due to damage sustained by hurricane Sandy. Contact was made with Sal Macaluso, the Essex County Director of Roads and Bridges, who informed GLDD that the bridge was in need of repair due to damage to the clutch mechanism. He stated that the bridge was scheduled to be repaired and anticipated to be fully operational by April of 2013, well in advance of the Lower Passaic River project mobilization. GLDD completed the river survey a few days later utilizing a smaller vessel with a reduced air draft.

During the week of June 10, 2013, GLDD initiated final notices to the appropriate bridge entities and discovered on June 20, 2013, that the Bridge Street bridge was still non-operational. Mr. Luis Rodriguez, a Supervising Engineer with Essex County, informed GLDD that the bridge was in need of more extensive repair than originally determined via initial survey. Follow up conversations with Mr. Rodriguez revealed that the original survey indicated damage to the clutch mechanism, but during the attempted repair in April, it was noted that both electric drive motors were in need of repair as well. Due to the age of the motors, drop in replacements were not available and they had to be removed and rebuilt. Essex County anticipates delivery of the motors on July 8, 2013 and all repairs completed by July 22, 2013.

The scheduled start date for the project of July 8, 2013, required that GLDD mobilize the equipment the week of July 1, 2013 to the dredge site. The movement of the equipment requires that the Bridge Street bridge open to accommodate the air draft of the tugboat. As this bridge is currently non-operational with an anticipated repair to occur in mid-July, the project schedule must be adjusted accordingly.

Although we are not fully aware of the metrics of the repair process (procurement, costs, contractors, etc.), GLDD would like to extend an offer of assistance if there exists a potential to expedite the repair process. We would also like to inquire as to the ability to manually open/close the bridge during evening hours. As you can probably note, there exists a lot of regulatory pressure to get this project started by July 8, 2013. We truly appreciate your open communications with GLDD in this matter and, as stated above, are offering any help possible to expedite the repair process.

If you have any questions, please do not hesitate to contact me at tking@gldd.com or my cell at 630-272-6494.

A handwritten signature in blue ink, appearing to read "Todd King", is positioned above a horizontal line.

Cc: Mr. Tim Briggs, GLDD
Mr. Tom Cnudde, GLDD